

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-398

July 25, 2001

NORTHERN UTILITIES, INC.,
Petition For Authority To
Implement Therm Billing

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

We deny Northern's petition for waivers of our notice and filing requirements of Chapters 110 and 120 of our Rules. Northern may pursue a proposed revenue increase such as the one proposed in this filing by initiating a rate case. Alternatively, Northern may propose a conversion from volumetric to therm billing of distribution service charges if it is revenue neutral relative to present rate and revenue levels, but not relative to the test-year revenues that were used in Docket No. 97-393. Finally, we direct Staff to develop a recommendation on whether we ought to initiate a rate case for Northern on our own motion and to put the question out for comment for our further consideration.

II. PROCEDURAL HISTORY

On June 13, 2001, Northern filed its Notice of Intent (June 13th Notice) to file a request for authority to implement therm billing in its Maine Division in a manner that would be "revenue neutral" to the 1996 test year used in its filing in Docket No. 97-393. In this way, Northern maintains, it is not seeking an increase in annual operating revenues, relative to the 1996 test year. Northern's proposal would result in an increase in current revenues of approximately \$550,000. Northern proposes that the revised distribution rates take effect on November 1, 2001, with its winter gas cost factor adjustment. Northern seeks authority to make this adjustment independent of a comprehensive review of costs and revenues. Consequently, Northern requested waivers of certain notice provisions and filing requirements of our Rules applicable to rate case filings.

We considered this matter at our deliberative session on July 9, 2001.

III. ANALYSIS

A. Northern's Petition

Northern's June 13th filing constitutes both 1) a Notice of Intent to File its Petition for Authority to Implement Therm Billing with an attendant revenue increase, and 2) a request for waiver of certain requirements of Chapters 110 and 120 of the Commission's Rules that would be invoked by the revenue increase portion of its proposal. In effect, Northern seeks to make a revenue adjustment of approximately \$550,000 in conjunction with the

conversion to a term billing methodology without having it construed, or conducted, as a general rate case.¹ Accordingly, Northern seeks a waiver of the requirement that it file full rate case information with its term billing proposal, including all testimony and exhibits which it would offer as a direct case in support of its proposed rates, and to have us waive the 60-day notice requirement before make its filing.²

Northern also contends that its proposal does not constitute “a significant change in rate design” as defined in Chapter 120(2)(J) and Chapter 110 § 710(b), and, thus, would not be required to comply with provisions of our rules pertaining thereto.

Finally, Northern seeks a waiver of the requirement in section 712(c) of Chapter 110 that it give direct customer notice of a general increase in rates. Alternatively, if Northern is required to give direct notice to customers, it seeks to vary from the timing established in the rule to allow it to include the notice in a full monthly billing cycle over a period of 45 days.

B. Rule Requirements

The Commission’s Rules define a general rate case as a rate filing by a public utility that, upon taking effect, would increase the annual gross operating revenues of a public utility by more than 2%,³ exclusive of sales for resale and cost of gas adjustments.⁴ Chs. 110(710)(a) and 120(2)(E). Our rules require a public utility filing a general rate case to issue notice to its customers and to make a full filing of financial and other ratemaking information in support of its request.

Section 2(F) of Chapter 120 defines a major utility as one having annual intrastate operating revenues of over \$5,000,000 in the 12 months immediately preceding a general rate case. Major utilities are required to give 60 days prior written notice of the utility’s intention to make a general rate case filing

¹ Northern contends its proposal will result in a decrease in rates but an increase in billing units, resulting in an overall increase in bills and revenues.

² Northern indicated that it could make its proposed term billing filing as soon as June 15th if we waived the specified 60-day notice provision and the Chapter 110 and 120 filing requirements.

³ There is a discrepancy between the statutory definition of “general increase in rates” as contained in 35-A M.R.S.A. § 307 and the definition used in Chapter 120. Section 307 defines general increase as a 1% increase in annual operating revenues. The 2% figure used in Chapter 120 predates the statutory requirement, which went into effect in July 1982. We plan to correct this inconsistency in a future rulemaking.

⁴ The 2% threshold for Northern is approximately \$500,000.

to allow the Commission to plan resources and hire consultants necessary for processing the case.

Section 712(c) of Chapter 110 specifies that a utility must provide notice of a general rate case “by mail or by such other means as the utility may employ to deliver its bills, not later than 15 days after, nor earlier than 90 days before the commencement” of the case, unless otherwise ordered by the Commission. Similar notice and filing requirements apply when the utility initiates a general rate design case. Ch. 110 § 712(c).

Section 9 of Chapter 120 and Section 103 of Chapter 110 allow us to grant a waiver of any of the requirements of our rules where good cause exists.

C. Discussion

Although interstate pipelines and many LDCs price their services on a therm basis, Northern has historically charged based on volume (CCF) in Maine.⁵ As long as the relationship between the heat content of the gas and the volumetric units remains consistent with that on which the distribution rates were set, use of volumetric billing will reasonably allow the utility to recover its target revenue requirement. However, if heat content varies significantly from the test year value, Northern’s revenue recovery will likely vary in corresponding measure. Billing on a therm basis allows Northern to more closely match its revenues with its gas costs.⁶

Historically, Northern has had a stable average heat factor of about 1.02 therms per Ccf. However, since the operation of Maritimes and Northeast Pipeline (MNE) began in November 1999, Northern’s system gas has been saturated with “hotter” Sable Island gas (i.e. more Btu’s per volumetric unit), which has resulted in Northern’s heat factor rising to about 1.08 therms per Ccf. When gas contains a higher heat content, customers’ energy needs are met through use of lower volumes of gas. Because Northern’s current distribution rates were developed on the basis of the historic average heat content and corresponding sales volume assumptions, Northern contends that the effect of the higher heat content has been to reduce Northern’s throughput and base revenues below what they would be if the heat factor had remained at historic levels. Northern notes that the change will result in lower unit distribution rates, but also in increased units, thereby having the overall effect of increasing customers’ distribution charges.

⁵ Northern’s New Hampshire Division and Bay State Gas Company both bill on a therm basis.

⁶ After conversion to therm billing, Northern would continue to meter its customer usage by volume. Northern would use these volumetric readings and the actual heat content of the system gas experienced during the billing period to calculate therm sales for billing purposes.

Consequently, Northern seeks to convert its customer billing units from cubic feet to therms to capture fluctuations in the heat content of gas, and also to reset distribution rates to increase its annual gross operating revenue collections to equal those it reported in Docket No. 97-393, which provided the basis for its current distribution rate design. Doing so would increase its current revenues by approximately \$550,000.

Northern proposes to convert its current volumetric billing system to one based on therms relative to the test year ended September 30, 1997, used in its rate design case, Docket No. 97-393, as the basis for class rate reconfigurations. In effect, the company argues that because this proposal would not have increased revenues if it had been implemented in the fall of 1996 or at the conclusion of the rate design case in 1999, we should not consider this a general rate increase and, therefore, should waive a number of the filing requirements for a rate increase under Chapters 110 and 120 of our rules.

It may be true that the proposed change would not have increased the cost of Northern's product to its customers several years ago. However, because the annual revenue change that would result from implementation of the therm billing proposal is approximately \$550,000, in fact, Northern is requesting a significant rate increase based upon a single change in its operations, i.e. the change in the heat content of its system gas.

This Commission has a long-standing policy against single-issue ratemaking. We can only determine whether the overall level of rates is just and reasonable by considering all of the costs that make up a utility's revenue requirement. If we simply accept that one single cost has changed and change rates to reflect that single factor, we would not have the opportunity to investigate whether other costs have declined or whether sales growth has wholly or in part provided additional revenue. In fact, it is entirely possible that a legitimate cost increase of \$500,000 could be more than offset by \$1,000,000 in cost savings in other areas and new revenues from additional sales. In such a case, rates should be reduced by \$500,000, not increased.

Accordingly, we must decline Northern's waiver request. If the Company wishes to increase its revenues significantly, it may file a rate case, including the filing requirements under the applicable MPUC rules. In fact, a rate case for Northern might be a worthwhile exercise, both because it has not had a base rate case for almost 20 years and because such a rate case might serve as the starting point for an alternative rate plan as permitted under 35-A M.R.S.A. § 4706. In fact, we will direct our staff to consider whether we should open a base rate case for Northern on our own motion.

Revenue adjustment issues aside, we do not oppose a switch to therm billing. If Northern wishes to propose a change to therm billing which will not result in a revenue increase, based on recent heat content and revenue levels, we would invite such a request. We would also not exclude out-of-hand a revenue neutral change in current volumetric distribution rates reflecting

expected future heat content if Northern can demonstrate that future heat content can be predicted with reasonable accuracy.

IV. CONCLUSION

We find that Northern's proposal does not represent a "significant change in rate design." Chapter 120 defines significant rate design change as one that substantially changes the allocation of the revenue requirement to individual customer classes. Based on an analysis prepared by our staff, it does not appear that Northern's proposed rate change, if adopted, would significantly change the proportion of revenues recovered from each of the classes.

We do find that this is a general rate case because it would increase customers' bills and annual operating revenues from current levels. Thus, the provisions of Chapters 110 and 120 will apply, absent our waiver.

We deny Northern's request for waivers from Chapter 120 to omit specified filing requirements if it wishes to pursue the revenue adjustment it has described in its Notice of Intent.

After this ruling, Northern's options will include: 1) withdrawing its filing pursuant to Ch. 110 § 745(a), 2) filing a general rate case, or 3) proposing to convert its billing methodology from a volumetric units to therms on a revenue neutral basis as of current revenue levels. We defer ruling on Northern's request for a modification in notice timing, because we do not know whether Northern will pursue a general rate case.⁷ In the event that Northern pursues a general rate case, or we order one, it may seek necessary waivers regarding the timing of customer notice.

Dated at Augusta, Maine, this 25th day of July, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

⁷ We request that Northern indicate within 30 days, if possible, what action it will take with respect to this matter.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.